Misbranding was alleged in that the statement "Kill-Germ" was false and misleading since the article was not a germicide. Further misbranding was alleged in that certain statements on the carton and the bottle label regarding the curative and therapeutic effects of the article falsely and fraudulently represented that it was effective as a healer, germicide, and blood purifier, and that it was effective in curing rheumatism, coughs, asthma, indigestion, catarrhal bronchitis, catarrh of the stomach, ulcerated stomach, sores, burns, boils, carbuncles, felons, cuts, ringworm, erysipelas, gaulds, piles, hemorrhoids, and any inflammation of the mucous membranes, eye, ear, nose, or throat.

On January 20, 1939, the defendant entered a plea of guilty and was sentenced to pay $25 in lieu of fine and costs on count I and $0.01 in lieu of fine and costs on the remaining five counts of the information.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30228. Adulteration and misbranding of arsenous acid and diluted hydriodic acid. U. S. v. Mallinckrodt Chemical Works. Plea of nolo contendere. Fine, $100.** (F. & D. No. 38066. Sample Nos. 71880–B, 71889–B.)

These products differed from the standard laid down in the United States Pharmacopoeia, the former being deficient in arsenic trioxide and containing excessive impurities; and the latter containing hydriodic acid in excess of the amount required by that authority.

On August 10, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Mallinckrodt Chemical Works, a corporation trading at New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act on or about February 25 and March 24, 1936, from the State of New York into the State of New Jersey of quantities of arsenous acid and diluted hydriodic acid, which were adulterated and misbranded.

The arsenous acid was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, since it contained less than 99.8 percent, namely, not more than 99.4 percent of arsenic trioxide. The residue remaining upon ignition of 1 gram was more than 0.1 percent, namely, not less than 0.26 percent; 1 gram of the article when treated with 10 cubic centimeters of ammonia T. S. did not give a clear, colorless solution, some of the material having been undissolved; and the standard of strength, quality, and purity of the article was not declared on the container thereof. Misbranding was alleged in that the statement on the label, "Acid Arsenous U. S. P. Powdered Arsenic Trioxide," was false and misleading.

The diluted hydriodic acid was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia but differed from the standard of strength, quality, and purity as determined by the test laid down therein, since it contained more than 10.5 percent, namely, not less than 15.6 percent of hydriodic acid; whereas the pharmacopoeia provides that the article shall contain not more than 10.5 percent of hydriodic acid and the standard of strength, quality, and purity of the article was not declared on the container. Misbranding was alleged in that the statement on the label, "Acid Hydriodic U. S. P. diluted (9½–10½%)," was false and misleading.

On October 31, 1938, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of $100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30229. Adulteration and misbranding of Harosma and Elco Cold Treatment; misbranding of Mrs. Bee Hypo Tonic Pills, Furmas, Rx 333, Mrs. Bee Health Anodyne Capsules, and Sexol Tablets. U. S. v. David F. Berland, Archie Berland, and Rose Kotenberg (Erie Laboratories). Pleas of nolo contendere. Judgment of guilty. Fine, $50.** (F. & D. No. 39754. Sample Nos. 13145–C, 37207–C, 37208–C, 37212–C, 37213–C, 37221–C to 37224–C, inclusive.)

The labeling of these products, with the exception of the Elco Cold Tablets, bore false and fraudulent representations regarding their curative and therapeutic effects. The Harosma and the Elco Cold Tablets contained less phenacetin than declared; and Mrs. Bee Health Anodyne Capsules contained acetanilid, which was not declared on the label.

On October 12, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against David F. Berland, Archie Berland, and Rose Kotenberg, copartners trading as Erie Laboratories at Cleveland, Ohio, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, within the period from on or about August 8, 1936, to on or about January 7, 1937, from the State of Ohio into the States of Pennsylvania and New York of quantities of the above-named drug preparations of which a part were adulterated and misbranded and the remainder were misbranded. The articles were labeled: "Harosma [or "Elco Cold Treatment" or "Furmas"] * * * Erie Laboratories"; "Mrs. Bee Hypo-Tonic Pills * * * Manufactured for Mrs. Bee Laboratories, Cleveland, Ohio"; "Mrs. Bee Health Anodyne Capsules * * * Prepared for Mrs. Bee Health Laboratories, Cleveland, O."; "℞ 333 * * * For Sale by Reese Drugs, Wilkesbarre, Pa."

Analysis of the Harosma showed that it consisted essentially of aspirin and acetophenetidin (2.49 grains per capsule) and caffeine; that the Hypo Tonic Pills consisted chiefly of plant material, coated with sugar and iron oxide; that the Furmas consisted essentially of a mixture of magnesium hydroxide, magnesium carbonate, sodium and potassium carbonates and/or bicarbonates, a water-soluble red substance, peppermint oil, and water; that the Rx 333 consisted essentially of aspirin and sodium salicylate; that the Mrs. Bee Health Anodyne Capsules consisted essentially of phenacetin, aspirin, and caffeine; and that the Sexol Tablets consisted essentially of iron phosphate, talc, plant extractives, and an alkaloid.

The Harosma was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each capsule was represented to contain 4 grains of phenacetin; whereas each capsule contained not more than 2.5 grains of phenacetin. The Harosma was alleged to be misbranded in that the statement "Each capsule contains Phenacetin 4 Grains," borne on the bottle label, was false and misleading. It was alleged to be misbranded further in that it contained phenacetin, a derivative of acetanilid, and the package label failed to bear a statement of the quantity or proportion of phenacetin contained in it.

The Elco Cold Treatment was alleged to be adulterated in that each capsule was represented to contain approximately 1 grain of acetanilid and 3½ grains of phenacetin; whereas each of the capsules contained not more than 0.72 grain of acetanilid, and not more than 2.84 grains of phenacetin. It was alleged to be misbranded in that the statement, "Each capsule contains Acetanelid, not over 1 grain. Phenacetine, an acetanelid derivative—3½ grains," borne on the bottle label, was false and misleading. It was alleged to be misbranded further in that it contained acetanilid and phenacetin (a derivative of acetanilid), and the package label failed to bear a statement of the quantity or proportion of acetanilid and phenacetin contained in the article.

Mrs. Bee Health Anodyne Capsules were alleged to be misbranded in that they contained acetophenetidin, a derivative of acetanilid, and the label on the package failed to bear a statement of the quantity or proportion of acetophenetidin contained in them.

All products, with the exception of the Elco Cold Treatment, were alleged to be misbranded further in that certain statements, designs, and devices appearing on the labels, falsely and fraudulently represented the curative and therapeutic effectiveness of the articles in the following respects:

(Harosma) that it was effective to lessen the paroxysms of hay fever and asthma; and effective as a treatment, remedy, and cure for rose fever, sinus, rhinitis, la grippe, running nose, and weeping eyes.

(Mrs. Bee Hypo-Tonic Pills) that they were effective as a tonic and as a nerve sedative; effective to tone up the nerves; and effective as a treatment for women who are nervous, run-down, lack appetite, and are irritable.

(Furmas) that it was effective as a relief for hyperacidity, acidosis, indigestion, dyspepsia, functional stomach disorders, loss of appetite, headaches, sleeplessness, nervousness, and dizziness.

(Rx 333) that it was effective as a prompt relief of pain caused by rheumatism, lumbago, neuralgia, gout, arthritis, sciatica, neuritis, and swollen joints.

(Mrs. Bee Health Anodyne Capsules) that they were effective as a treatment for painful menstruation.

(Sexol Tablets) that they were effective as an invigorating tonic and as a stimulant.

On February 3, 1939, pleas of nolo contendere having been entered, the court found the defendants guilty and imposed a fine of $50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

**30230. Adulteration and misbranding of Gay. U. S. v. Strong, Cobb & Co., Inc., Theodore S. Strong, Robert W. Hompe, Sterling S. McMillan and Robert C. Godfrey. Demurrer and motion to quash overruled. Pleas of nolo contendere by each of the defendants. Judgments of guilty as to Strong, Cobb & Co., Inc., and Theodore S. Strong. Judgments of not guilty as to remaining defendants. Corporation fined $50. Theodore S. Strong fined $25.** (F. & D. No. 39741. Sample Nos. 15369–C, 27964–C, 27977–C.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects and false and misleading representations to the effect that it was harmless. One lot of the article contained acetophenetidin not declared on the label, and the other lot contained less acetophenetidin than declared.

On September 18, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Strong, Cobb & Co., Inc., a corporation, Cleveland, Ohio, and Theodore S. Strong, Robert W. Hompe, Sterling S. McMillan, and Robert C. Godfrey, officers of the said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about September 25 and October 23, 1936, from the State of Ohio into the State of Pennsylvania of quantities of Gay which was misbranded, and one lot of which was also adulterated. The article was labeled in part: "Distributed by F. H. Fowles Co. Philadelphia."

Analysis of the product showed that it consisted essentially of aspirin, acetophenetidin (four samples examined contained 1.68, 1.63, 1.67, and 1.73 grains, respectively, per tablet), plant material, and caffeine.

One lot of the product was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each of the tablets was represented to contain 2 grains of acetophenetidin; whereas each of said tablets contained less than 2 grains, namely, not more than 1.68 grains of acetophenetidin. The said lot was alleged to be misbranded in that the statement "Each tablet contains 2 Gr. Acetophenetidin (acetanilid derivative)," borne on the label, was false and misleading.

Both lots were alleged to be misbranded in that the article contained acetophenetidin (a derivative of acetanilid), and the label on the package failed to bear a statement of the quantity and proportion of acetophenetidin contained therein, since the statement made was incorrect in one instance and was absent in the other. Both lots were alleged to be misbranded further in that the statements "Gay contains no harmful drugs * * * may be used with utmost confidence," appearing in the labeling, were false and misleading in that they represented that the article contained no harmful drugs and could be used with utmost confidence; whereas the article did contain a harmful drug, namely, acetophenetidin (acetanilid derivative), which could not be used with the utmost confidence. Both lots were alleged to be misbranded further in that certain statements in the labeling regarding the curative and therapeutic effects of the article falsely and fraudulently represented that it was effective as a prompt relief from menstrual pain and effective in the treatment of menstrual pain due to normal causes.

On March 18, 1938, the defendants filed a demurrer to the information and a motion to quash, which were argued on May 30, 1938, and overruled as to each defendant without opinion. On February 3, 1939, the defendants entered pleas of nolo contendere and the court adjudged the defendants Strong, Cobb Co., Inc., and Theodore S. Strong to be guilty and imposed a fine of $50 upon the former and $25 upon the latter. The remaining defendants were found not guilty.

HARRY L. BROWN, *Acting Secretary of Agriculture.*